

# HOUSE BILL No. 1297

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-34.

**Synopsis:** New markets tax credit. Provides for an Indiana new markets tax credit against state taxes for investments in qualified community development entities that is similar to the federal new markets tax credit. Provides that the Indiana economic development corporation (IEDC) may not approve more than \$80,000,000 of qualified equity investments each state fiscal year. Requires the IEDC to submit an annual report on the Indiana new markets tax credit to the budget committee.

**Effective:** January 1, 2015 (retroactive).

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January 13, 2015, read first time and referred to Committee on Ways and Means.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1297

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE  
2       AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3       JANUARY 1, 2015 (RETROACTIVE)]:

4       **Chapter 34. Indiana New Markets Tax Credit**

5       **Sec. 1. This chapter applies only to taxable years beginning after**  
6       **December 31, 2014.**

7       **Sec. 2. The following definitions apply throughout this chapter:**

8       (1) "Applicable percentage" means:

9       (A) zero percent (0%) for the first two (2) credit allowance  
10      dates; and

11      (B) eight percent (8%) for the next four (4) credit  
12      allowance dates.

13      (2) "Credit allowance date" means, with respect to any  
14      qualified equity investment:

15      (A) the date on which the investment is initially made; and



- 1 (B) each of the six (6) anniversary dates immediately  
2 following the date specified in clause (A).  
3 (3) "IEDC" refers to the Indiana economic development  
4 corporation.  
5 (4) "Low income community" has the meaning set forth in  
6 Section 45D of the Internal Revenue Code.  
7 (5) "Purchase price" means the amount paid to an issuer of a  
8 qualified equity investment for the qualified equity  
9 investment.  
10 (6) "Qualified active low income community business" has the  
11 meaning set forth in Section 45D of the Internal Revenue  
12 Code, and 26 CFR 1.45D-1. A business is considered a  
13 qualified active low income community business for the  
14 duration of the qualified community development entity's  
15 investment in, or loan to, the business if the qualified  
16 community development entity reasonably expects, at the time  
17 the qualified community development entity makes the  
18 investment or loan, that the business will be located in Indiana  
19 and continue to satisfy the requirements for being a qualified  
20 active low income community business throughout the entire  
21 period of the investment or loan.  
22 (7) "Qualified community development entity" has the  
23 meaning set forth in Section 45D of the Internal Revenue  
24 Code for any period during which an allocation agreement is  
25 in effect between the entity and the Community Development  
26 Financial Institutions Fund of the United States Treasury  
27 Department with respect to credits authorized by Section 45D  
28 of the Internal Revenue Code. The term includes a subsidiary  
29 community development entity of a qualified community  
30 development entity.  
31 (8) "Qualified equity investment" means any equity  
32 investment in a qualified community development entity:  
33 (A) that is made or acquired after June 30, 2015, and  
34 before July 1, 2023, at its original issuance solely in  
35 exchange for cash;  
36 (B) of which at least ninety-five percent (95%) of the cash  
37 purchase price is used by the issuing qualified community  
38 development entity before the first anniversary of the  
39 initial credit allowance date to make qualified low income  
40 community investments in qualified active low income  
41 community businesses located in Indiana;  
42 (C) that is designated by the issuing qualified community



- 1 development entity as a qualified equity investment; and
- 2 (D) that is certified by the IEDC under this chapter.
- 3 (9) "Qualified low income community investment" means any
- 4 capital or equity investment in, or loan to, any qualified active
- 5 low income community business located in Indiana.
- 6 (10) "State tax liability" means a person's total tax liability
- 7 that is incurred under:
- 8 (A) IC 6-3-1 through IC 6-3-7 (the adjusted gross income
- 9 tax);
- 10 (B) IC 6-5.5 (the financial institutions tax); and
- 11 (C) IC 27-1-18-2 (the insurance premiums tax);
- 12 as computed after the application of the credits that under
- 13 IC 6-3.1-1-2 are to be applied before the credit provided by
- 14 this chapter.
- 15 (11) "Taxpayer" means an individual or entity that has state
- 16 tax liability.
- 17 **Sec. 3. Any taxpayer that makes a qualified equity investment**
- 18 **is entitled to a credit against the entity's state tax liability that may**
- 19 **be used as follows:**
- 20 (1) For each taxable year that includes a credit allowance date
- 21 of the qualified equity investment, the taxpayer, or a taxpayer
- 22 who is a subsequent holder of the qualified equity investment,
- 23 is entitled to claim part of the credit against the taxpayer's or
- 24 the subsequent holder's state tax liability for the taxable year.
- 25 (2) Each taxable year, subject to subdivision (3), the credit
- 26 amount equals:
- 27 (A) the applicable percentage associated with the credit
- 28 allowance date that occurs during the taxable year;
- 29 multiplied by
- 30 (B) the purchase price paid to the issuer of the qualified
- 31 equity investment.
- 32 (3) The amount of the tax credit claimed may not exceed the
- 33 amount of the taxpayer's state tax liability for the taxable
- 34 year for which the tax credit is claimed.
- 35 **Sec. 4. If a pass through entity is entitled to a credit under this**
- 36 **chapter but does not have state tax liability against which the tax**
- 37 **credit provided by this chapter may be applied, a shareholder,**
- 38 **partner, or member of the pass through entity is entitled to a tax**
- 39 **credit equal to:**
- 40 (1) the tax credit determined for the pass through entity for
- 41 the taxable year; multiplied by
- 42 (2) the percentage of the pass through entity's distributive



income to which the shareholder, partner, or member is entitled.

Sec. 5. (a) If the amount of a tax credit for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to a subsequent taxable year. The amount of the tax credit carryover from a taxable year is reduced each taxable year thereafter to the extent that the carryover is used by the taxpayer to obtain a tax credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of an unused tax credit.

Sec. 6. (a) After June 30, 2015, a qualified community development entity may apply to have an equity investment designated as a qualified equity investment that meets the requirements for the tax credit provided by this chapter. An application submitted under this subsection must include the following:

(1) Evidence of the applicant's certification as a qualified community development entity, including evidence that the applicant's service area includes Indiana.

(2) A copy of an allocation agreement executed by the applicant, or its controlling entity, and the Community Development Financial Institutions Fund.

(3) A certificate executed by an executive officer of the applicant attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund.

(4) A description of the proposed amount, structure, and purchaser of the qualified equity investment requested by the applicant to be certified under this chapter.

(5) A certificate executed by the executive officer of the applicant attesting that the applicant has sufficient allocation available under the effective allocation agreements with the Community Development Financial Institutions Fund to at least match dollar for dollar the amount of the qualified equity investment requested by the applicant to be certified under this chapter.

(6) A commitment of the total amount of matching allocations under effective allocation agreements with the Community Development Financial Institutions Fund to be used by the applicant with the qualified equity investment requested by the applicant to be certified under this chapter.



(7) A commitment of the total amount of qualified low income community investments to be made by the applicant with the qualified equity investment requested by the applicant to be certified under this chapter.

(8) Identifying information for any entity that will earn tax credits as a result of the issuance of the qualified equity investment.

(9) Any other information requested by the IEDC, including information relating to the qualified active low income community businesses and the qualified low income community investments to be funded from the qualified equity investment requested by the applicant to be certified under this chapter.

(b) After June 30, 2015, the IEDC may select qualified equity investments for certification from the applications that are submitted to the IEDC under subsection (a).

(c) The IEDC may not certify more than eighty million dollars (\$80,000,000) of qualified equity investments under this chapter during any state fiscal year.

(d) If the IEDC certifies an equity investment in a qualified community development entity as a qualified equity investment, the qualified community development entity may transfer all or part of the certification for the qualified equity investment to:

(1) the controlling entity of the qualified community development entity; or

(2) another qualified community development entity that is a subsidiary of the controlling entity specified in subdivision (1).

**Sec. 7.** If the IEDC certifies an equity investment in a qualified community development entity as a qualified equity investment that is eligible for the tax credit provided by this chapter, the qualified community development entity and its subsidiary qualified community development entities shall:

(1) issue and receive in cash the total amount of the qualified equity investments certified by the IEDC under this chapter; and

(2) make qualified low income community investments in qualified active low income community businesses in the total amount equal to at least ninety-five (95%) of the total amount of qualified equity investments certified by the IEDC under this chapter.

**Sec. 8.** A taxpayer must claim the credit provided by this chapter on the taxpayer's annual state tax return in the manner



1       prescribed by the department.

2       **Sec. 9.** An entity claiming a credit under this chapter is not  
3       required to pay any additional tax as a result of claiming the credit,  
4       including the tax levied under IC 27-1-20-12.

5       **Sec. 10.** The IEDC shall, not later than December 1 each year,  
6       submit to the budget committee a report on the certification of  
7       credits under this chapter.

8       **SECTION 2.** An emergency is declared for this act.

